

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:09CR236
)	
v.)	
)	
PEDRO CARMONA-FLORES,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on the motion of defendant Pedro Carmona-Flores for reconsideration of his sentence in light of disparities caused by the uneven utilization of fast-track departures across the district courts (Filing No. [46](#)). The Court finds that defendant is not entitled to any reduction.

Where the defendant did not argue for a variance based on fast-track disparities at sentencing, resentencing on that basis is inappropriate. *United States v. Elodio-Benitez*, 672 F.3d 584, 586 (8th Cir. 2012). Defendant made no objections on this basis. Even so, a transcript from the sentencing hearing indicates that fast-track reductions were not only considered by the Court, but also constituted at least part of the rationale for a two-level reduction in defendant's offense level. Further, defendant was sentenced in connection with a plea agreement that secured the government's support for the two-level reduction and precluded the defendant from seeking a downward departure for any

other reason. Seeking a reduction now is inconsistent with the terms of the plea agreement. Accordingly,

IT IS ORDERED that defendant's motion for reconsideration of his sentence is denied.

DATED this 27th day of September, 2012.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court